

No. 13-1556

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**FILED**  
**Aug 14, 2013**  
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	<u>O R D E R</u>
	)	
KWAME M. KILPATRICK,	)	
	)	
Defendant-Appellant.	)	

Before: COLE and GIBBONS, Circuit Judges; FORESTER, District Judge.\*

Kwame Kilpatrick was found guilty by a jury of a racketeering conspiracy, extortion, attempted extortion, bribery, mail and wire fraud, filing false tax returns, and tax evasion. The district court ordered Kilpatrick detained pending sentencing. He appeals the denial of his motion for release on bond pending sentencing. Kilpatrick moves to file a supplemental brief in support of his appeal. The government opposes the motion to supplement and argues that the order denying Kilpatrick's release on bond pending sentencing should be affirmed. Upon review, we unanimously agree that oral argument is not needed. Fed. R. App. P. 34(a).

The introduction of new evidence on appeal is generally not permitted. *See* Fed. R. App. P. 10(e)(2). Kilpatrick's supplemental brief contains additional details and an updated status of a knee injury that he raised in support of his motion for release in the district court. Under the circumstances, we will permit the filing of the supplemental brief.

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\*The Honorable Karl S. Forester, Senior United States District Judge for the Eastern District of Kentucky, sitting by designation.

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A person found guilty and awaiting sentence must be detained unless the district court finds by clear and convincing evidence that the defendant: (1) is not a flight risk; and (2) is not a danger to the safety of another person or the community. 18 U.S.C. § 3143(a)(1). Thus, there is a presumption of detention following a determination of guilt. *See United States v. Vance*, 851 F.2d 166, 170 (6th Cir. 1988). We review the factual findings of the district court for clear error. *United States v. Christman*, 596 F.3d 870, 870 (6th Cir. 2010) (order) (citing *United States v. Hazime*, 762 F.2d 34, 37 (6th Cir. 1985)). Thus, “[a]bsent a showing that the court’s factual findings were clearly erroneous or that the district court committed an error of law, the district court’s detention order should be affirmed.” *United States v. Bowman*, 98 F.3d 1343 (Table) (6th Cir. 1996) (unpublished order).

The district court did not clearly err in denying Kilpatrick’s motions for release pending sentencing. The district court reviewed the motion under the correct standard, set forth in § 3143(a)(1), and supported its decision with a discussion of the relevant evidence. Kilpatrick has not shown that the district court’s factual findings are clearly erroneous, and upon *de novo* review we conclude that Kilpatrick has not shown by clear and convincing evidence that his release would not pose a risk of flight.

Kilpatrick’s motion to file a supplemental brief is **GRANTED**. The district court’s order denying release on bond pending sentencing is **AFFIRMED**.

ENTERED BY ORDER OF THE COURT



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Clerk

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt  
Clerk

100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000  
[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)

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Mr. Mark Chutkow  
U.S. Attorney's Office  
211 W. Fort Street  
Suite 2001  
Detroit, MI 48226

Mr. Harold Z. Gurewitz  
Gurewitz & Raben  
333 W. Fort Street  
Suite 1100  
Detroit, MI 48226

Re: Case No. 13-1556, *USA v. Kwame Kilpatrick*  
Originating Case No. : 2:10-cr-20403-1

Dear Sir or Madam,

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Jill Colyer  
Case Manager  
Direct Dial No. 513-564-7024

cc: Mr. Eric Doeh  
Mr. David J. Weaver

Enclosure

No mandate to issue